

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WAYNE ANTHONY RILEY,)
)
Petitioner,)
)
-vs-) Case No. CIV-17-0810-F
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER

Petitioner, appearing *pro se*, seeks habeas relief under 28 U.S.C. § 2254.¹ Magistrate Judge Bernard M. Jones entered a Report and Recommendation (the Report, doc. no. 7), recommending that the petition be dismissed as a successive petition, for lack of jurisdiction.

The Report advised the parties of their right to file an objection to the recommendations contained in the Report by September 12, 2017. The Report further advised that failure to timely object waives the right to appellate review of both factual and legal issues contained in the Report. No objection has been filed, and no request for an extension of time within which to object has been filed.

The Report addresses, in detail, the reasons for the magistrate judge's recommendation that petitioner's motion for habeas relief be dismissed for lack of jurisdiction. After review, the court agrees with the Report's recommended finding

¹ As explained in the Report and Recommendation, petitioner's initial pleading was on a form intended for a motion to amend or correct a sentence pursuant to 28 U.S.C. § 2255. However, such motions may only be made by those convicted and sentenced in a federal court. The exhibits attached to petitioner's pleading reference only his state conviction. Therefore, the Report construes the pleading as a petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254.

that the petition is a successive petition over which the court does not have jurisdiction, and that it would not be in the interest of justice to transfer this action to the appellate court.

Accordingly, with no objection having been filed, and having concluded that no purpose would be served by any further analysis here, the court **ACCEPTS**, **ADOPTS**, and **AFFIRMS** the Report and Recommendation of the magistrate judge. The petition for a writ of habeas corpus is **DISMISSED** for lack of jurisdiction. A certificate of appealability is **DENIED**.

IT IS SO ORDERED this 4th day of October, 2017.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE